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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,864	11/17/2000	Brent D. McLaws	MC57-001	8952

21567 7590 04/08/2003

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EXAMINER

KIM, CHRISTOPHER S

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 04/08/2003 //

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/715,864

Applicant(s)

MCLAWS ET AL.

Examiner

Christopher S. Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 3,6-9,11,18 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,10,12-17 and 20-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Amendment filed February 18, 2003 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

3. Claim 1 is objected to because of the following informalities: in claim 1, line 3, "container" should read --applicator--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. Claims 1, 2, 4, 5, 10, 13-17, 21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Inglis (956,101).

With respect to claims 1, 2, 4, 5, 13-17, 21 and 23, Inglis discloses an identifier label applicator comprising: a container 1; a plurality of predetermined identifier labels (and base fluid) 2; a discharge aperture 12; a fluid intake 8; a dynamic fluid conduit 9, 21; a container valve 20. Regarding the recitation of "dissimilar," the specification does not define the scope of "dissimilar." It has been considered to define any two fluids which are not the same.

With respect to claim 10, the bottom side is not particularly defined. Therefore, any bottom side having a cross-sectional area less than a cross-sectional area of portions above the bottom in the device of Inglis meets the claimed limitation.

5. Claims 1, 2, 4, 5, 10, 12-17 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by McRitchie (3,236,459).

With respect to claims 1, 2, 4, 5, 13-17 and 21-23, McRitchie discloses an identifier label applicator comprising: a container 18; a plurality of predetermined identifier labels (and base fluid) 190; a discharge aperture 130; a fluid intake (connection to tube 40); a dynamic fluid conduit 40, 182; a container valve 42. Regarding the recitation of "dissimilar," the specification does not define the scope of "dissimilar." It has been considered to define any two fluids which are not the same.

With respect to claim 10, the bottom side is not particularly defined. Therefore, any bottom side having a cross-sectional area less than a cross-sectional area of portions above the bottom in the device of McRitchie meets the claimed limitation.

Claim Rejections - 35 USC § 103

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over McRitchie (3,236,459) in view of Healey et al. (5,425,918).

McRitchie discloses the limitations of the claimed invention with the exception of the ultra violet detectable particles. Healey et al. discloses, in column 1, lines 23-24, fluorescent molecules. It would have been obvious to a person having ordinary skill in

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the art at the time of the invention to have used the device of McRitchie to spray the labels of Healey et al. to spray large areas.

Response to Arguments

7. Applicant's arguments filed February 18, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that "predetermined" labels are disclosed, the specification discloses types of labels without limitations to include: micro-labels, DNA identifiers, synthetic DNA labels, biological elements, rare earth minerals, UV detectable particles or substances, micro dots, data dots, unique or identifiable chemical compounds and others. Therefore, the disclosure and claim recitation of "predetermined" has been considered to define breadth "without limitations."

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

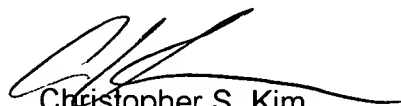
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703) 308-2087. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Christopher S. Kim
Examiner
Art Unit 3752

CK
April 7, 2003